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February 18, 1958

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CONCORD, N.H.

Roy Y. Lang, Director
Personnel Division
Rm. 114, State House
Concord, New Hampshire

Dear Mr. Lang:

This is in response to your letter of February 17th requesting our opinion on three matters set out therein relative to Laws 1955, 274:11 through 14 dealing with the special committee established to develop plans for an estimate of the cost of reducing the work week of certain State employees now working in excess of forty hours. We answer your questions in the order that you gave them.

1. The Highway Reserve Fund established by RSA 228:11 as inserted by 1957, 289:7 cannot be used for the purpose of employing additional personnel by the Motor Vehicle Department or the Department of State Police for purposes of implementing the 40 hour work week. The provision governing expenditure from the Reserve Fund (RSA 228:12 as inserted by Laws 1957 289:7) applies only when "the expenditure of additional funds over budget estimates is necessary for the proper functioning of the department of public works and highways . . ." Implementation of the 40 hour work week in the Motor Vehicle Department or in the Department of State Police cannot be construed as a necessary adjunct to the proper functioning of the Department of Public Works & Highways, and hence such an expenditure is not authorized.
2. Balances of the fish and game (RSA 206:33) fund unexpended at the close of the fiscal year may under certain circumstances be used for further fish and game expenditures but there is no specific authorization for use of such funds for additional personnel. In view of the fact that our answers to your other questions are in the negative and since you requested a draft of legislation in that event, we deem it advisable to include the fish and game fund in the legislation in order to avoid any possible question.

Roy Y. Lang, Director
Personnel Division

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3. Revenue of the Motor Vehicle Department may be retained for the use of that department only to the extent and in the amount authorized in the biennial appropriation, RSA 6:12. A charge in excess of the amount so specified for the purpose of implementing the 40 hour work week is not authorized.

With respect to the fourth paragraph of your letter, further information is required before legislation can be drafted. We must know for example whether you desire to have the cost of implementation of the forty hour week made a charge against the funds in question without respect to the balance in those funds at the end of the fiscal year or whether the committee or the Governor and Council will be given authority to allocate part of the cost to lapses or to the salary adjustment fund in the event that the special fund balances are not sufficient.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/m